

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF ELECTION
(PCT Rule 61.2)

To:

Assistant Commissioner for Patents
 United States Patent and Trademark
 Office
 Box PCT
 Washington, D.C.20231
 ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

Date of mailing (day/month/year) 14 March 2000 (14.03.00)	Assistant Commissioner for Patents United States Patent and Trademark Office Box PCT Washington, D.C.20231 ETATS-UNIS D'AMERIQUE
International application No. PCT/US99/10498	Applicant's or agent's file reference DEX-0035
International filing date (day/month/year) 12 May 1999 (12.05.99)	Priority date (day/month/year) 21 May 1998 (21.05.98)
Applicant MACINA, Roberto, A. et al	

1. The designated Office is hereby notified of its election made:

in the demand filed with the International Preliminary Examining Authority on:
15 December 1999 (15.12.99)

in a notice effecting later election filed with the International Bureau on:

2. The election was

was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Antonia Muller
Facsimile No.: (41-22) 740.14.35	Telephone No.: (41-22) 338.83.38

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

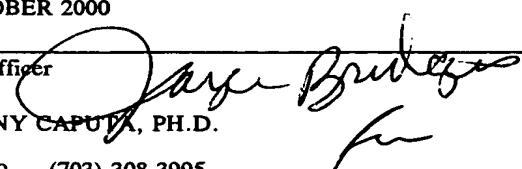
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference DEX-0035	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US99/10498	International filing date (day/month/year) 12 MAY 1999	Priority date (day/month/year) 21 MAY 1998
International Patent Classification (IPC) or national classification and IPC IPC(7): C12Q 1/68; G01N 33/53, 33/574 and US CL: 435/4, 6, 7.1		
Applicant DIADEXUS LLC	Filing with PCT	

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.
3. This report contains indications relating to the following items:
 - I Basis of the report
 - II Priority
 - III Non-establishment of report with regard to novelty, inventive step or industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application

Date of submission of the demand 15 DECEMBER 1999	Date of completion of this report 16 OCTOBER 2000
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer  ANTHONY CAPUTA, PH.D.
Facsimile No. (703) 305-3230	Telephone No. (703) 308-3995

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/10498

L Basis of the report

1. With regard to the elements of the international application:*

 the international application as originally filed the description:pages 1-31, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of the claims:pages 32-33, as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of the drawings:pages NONE, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of the sequence listing part of the description:pages 1-10, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is: the language of a translation furnished for the purposes of international search (under Rule 23.1(b)). the language of publication of the international application (under Rule 48.3(b)). the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

 contained in the international application in printed form. filed together with the international application in computer readable form. furnished subsequently to this Authority in written form. furnished subsequently to this Authority in computer readable form. The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished. The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. The amendments have resulted in the cancellation of: the description, pages NONE the claims, Nos. NONE the drawings, sheets/fig. NONE5. This report has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

**Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/US99/10498**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been and will not be examined in respect of:

the entire international application.

claims Nos. 6

because:

the said international application, or the said claim Nos. 6 relate to the following subject matter which does not require international preliminary examination (specify).

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 6 are so unclear that no meaningful opinion could be formed (specify).

the claims, or said claims Nos. 6 are so inadequately supported by the description that no meaningful opinion could be formed.

no international search report has been established for said claims Nos. 6.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

the written form has not been furnished or does not comply with the standard.

the computer readable form has not been furnished or does not comply with the standard.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/10498

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. statement**

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>1-5</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-5</u>	NO
Industrial Applicability (IA)	Claims <u>1-5</u>	YES
	Claims <u>NONE</u>	NO

2. citations and explanations (Rule 70.7)

Claims 1-5 lack novelty under PCT Article 33(2) as being anticipated by WO 96/39419 (12 December 1996). Document WO 96/39419 discloses a method for diagnosing the presence of colon cancer in a patient, a method of diagnosing metastatic colon cancer in a patient, a method of staging colon cancer in a patient, a method of monitoring colon cancer in a patient for the onset of metastasis and a method of monitoring changes in a stage of colon cancer, the same that claimed in claims 1-5, respectively.

Claims 1-5 have industrial applicability under PCT Article 33(4).

----- NEW CITATIONS -----

NONE

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/10498

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

I. BASIS OF REPORT:

5. (Some) amendments are considered to go beyond the disclosure as filed:
NONE

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US99/10498

A. CLASSIFICATION OF SUBJECT MATTER

IPC(6) :C12Q 1/68; G01N 33/53, 33/574

US CL :435/4, 6, 7.1

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 435/4, 6, 7.1

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

Scisearch, HCAPLUS, medline, biosis, membase, wpids, jicst-eplus, biobusiness, biotechds, phin, phic, embal

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 96/39419 A1 (HUMAN GENOME SCIENCES, INC.) 12 December 1996, see entire document.	1-5

 Further documents are listed in the continuation of Box C. See patent family annex.

* Special categories of cited documents:	*T*	later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
A document defining the general state of the art which is not considered to be of particular relevance	*X*	document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
E earlier document published on or after the international filing date	*Y*	document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
L document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	*&*	document member of the same patent family
O document referring to an oral disclosure, use, exhibition or other means		
P document published prior to the international filing date but later than the priority date claimed		

Date of the actual completion of the international search

16 AUGUST 1999

Date of mailing of the international search report

10 SEP 1999

Name and mailing address of the ISA/US
Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231

Facsimile No. (703) 305-3230

Authorized officer
NANCY JOHNSON

Telephone No. (703) 308-0196

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US99/10498

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This international report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. Claims Nos.: because they relate to subject matter not required to be searched by this Authority, namely:

2. Claims Nos.: 6 because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:

The sequence listing in computer readable form did not comply with required standards. The disc could not be preprocessed. Thus, a search of claim 6, drawn to SEQ ID NO:3, 4, 5 or 7, could not be carried out.

3. Claims Nos.: because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.

2. As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.

3. As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.:

4. No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

The additional search fees were accompanied by the applicant's protest.
No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

Int'l. national application No.
PCT/US95/07289

A. CLASSIFICATION OF SUBJECT MATTER

IPC(6) :C07H 21/02, 21/04; C12N 5/10, 15/70, 15/74; C12P 21/00; C12Q 1/68

US CL :435/6, 69.1, 252.3, 320.1; 536/23.5, 24.31

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 435/6, 69.1, 252.3, 320.1; 536/23.5, 24.31

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched
NONE

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

APS, CA, CAPLUS, BIOSIS, MEDLINE, BIOTECHDS, EMBASE, LIFESCI, WPIDS, DISABS, CONFSCI, GENBANK, EMBL, GENESEQ (SEQ ID NOS. 1, 3)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	Science, Volume 263, issued 18 March 1994, Papadopoulos et al, "Mutation of a mutL Homolog in Hereditary Colon Cancer", pages 1625-1629, see entire document.	1-7, 15-18
Y	The Journal of Biological Chemistry, Volume 269, Number 4, issued 28 January 1994, Gum, Jr. et al, "Molecular Cloning of Human Intestinal Mucin (MUC2) cDNA", pages 2440-2446, see entire document.	1-7, 15-18
Y	The Journal of Biological Chemistry, Volume 267, Number 30, issued 25 October 1992, Gum, Jr. et al, "The Human MUC2 Intestinal Mucin Has Cysteine-rich Subdomains Located Both Upstream and Downstream of Its Central Repetitive Region", pages 21375-21383, see entire document.	1-7, 15-18

Further documents are listed in the continuation of Box C.

See patent family annex.

•	Special categories of cited documents:	T	later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
•A*	document defining the general state of the art which is not considered to be part of particular relevance		
•E*	earlier document published on or after the international filing date	X*	document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
•L*	document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	Y*	document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
•O*	document referring to an oral disclosure, use, exhibition or other means		
•P*	document published prior to the international filing date but later than the priority date claimed	•a*	document member of the same patent family

Date of the actual completion of the international search

02 FEBRUARY 1996

Date of mailing of the international search report

27 FEB 1996

Name and mailing address of the ISA/US
Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231

Facsimile No. (703) 305-3230

Authorized officer

Paul B. Tran, Ph.D.
PAUL B. TRAN, PH.D.

Telephone No. (703) 308-0196

INTERNATIONAL SEARCH REPORTInternational application No.
PCT/US95/07289**C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT**

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	The Journal of Biological Chemistry, Volume 267, Number 8, issued 15 March 1992, Xu et al, "cDNA for the Carboxyl-terminal Region of a Rat Intestinal Mucin-like Peptide", pages 5401-5407, see entire document.	1-7, 15-18

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To: JANE MASSEY LICATA
LAW OFFICES OF JANE MASSEY LICATA
66 E. MAIN STREET
MARLTON, NEW JERSEY 08053

PCT

NOTIFICATION OF TRANSMITTAL OF
INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of Mailing
(day/month/year)

08 NOV 2000

Applicant's or agent's file reference

DEX-0035

IMPORTANT NOTIFICATION

International application No.

PCT/US99/10498

International filing date (day/month/year)

12 MAY 1999

Priority Date (day/month/year)

21 MAY 1998

Applicant

DIADEXUS LLC

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA/US
Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231

Facsimile No. (703) 305-3230

Authorized officer
ANTHONY CAPUTA, PH.D.

Telephone No. (703) 308-0196